

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

JOHNNY RAY PATTON, 1135013,)	
Petitioner,)	
v.)	No. 3:06-CV-424-P
)	(Consolidated with
NATHANIEL QUARTERMAN, Director)	3:06-CV-425-P
Texas Department of Criminal Justice,)	3:06-CV-426-P
Correctional Institutions Division)	3:06-CV-430-P)
Respondent.)	ECF
)	

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

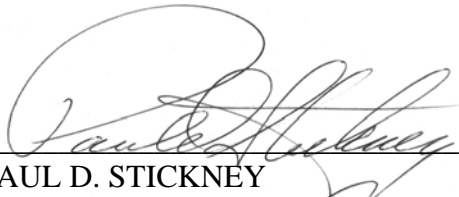
This cause of action was referred to the United States Magistrate Judge pursuant to the provisions of Title 28, United States Code, Section 636(b), as implemented by an order of the United States District Court for the Northern District of Texas. The Findings, Conclusions and Recommendation of the United States Magistrate Judge follow:

On April 26, 2007, Petitioner filed a motion for stay and abeyance. He argues that habeas issues are currently pending in state court. Petitioner submits a May 10, 2006, order from the trial court designating issues in his state habeas petition. (Motion for Stay/Abeyance, Ex. 1). He also submits, however, an August 1, 2006, letter from the trial judge instructing the Court of Appeals to disregard his May 10, 2006, order designating issues stating the order was in error. (Petitioner's June 18, 2007, Reply, Ex. E, F),¹ The Court of Criminal Appeals had already denied Petitioner's habeas petitions. Petitioner argues his state habeas petitions remain pending because he filed a motion to amend the petitions on July 24, 2006.

¹ Although Petitioner does not number these exhibits, they are located directly after exhibit D.

On June 6, 2007, Respondent filed his response to the motion for stay/abeyance. Respondent included affidavits stating that Petitioner has no state habeas issues pending. Additionally, the Court accessed the Court of Criminal Appeals' website at www.cca.courts.state.tx.us. The website shows that there are no habeas petitions currently pending for Petitioner. The Court therefore recommends that the motion for stay/abeyance be denied

Signed this 6th day of July, 2007.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a true copy of these findings, conclusions and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions and recommendation must serve and file written objections within ten days after being served with a copy. A party filing objections must specifically identify those findings, conclusions or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory or general objections. A party's failure to file such written objections to these proposed findings, conclusions and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions and recommendation within ten days after being served with a copy shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).